SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1940

Nos. 598 and 599

HARVARD STATE BANK,
Petitioner,

vs.

THE BALTIMORE AND OHIO RAILROAD COMPANY, ET AL.

MOTION SUGGESTING DIMINUTION OF RECORD.

Now comes HARVARD STATE BANK, petitioner, and suggests a diminution of the record in that certain parts of Exhibit 74 described in the decree approving the Debtor's Plan are necessary for the consideration of this case.

MEYER ABRAMS,
Attorney for Petitioner.

EXCERPT FROM EXHIBIT 74 REFERRED TO IN ABOVE MOTION.

Exhibit 74, consisting of a Supplemental Indenture dated January 1, 1940, described in the Decree approving the Debtor's Plan, contains the following pertaining to the pledged securities with the Manhattan Company under the $50,000,000 mortgage:

"SECTION 3. The first sentence of the seventh paragraph of Section 2 of Article Five of the Note

Indenture is hereby amended so as to read as follows:

'All cash at any time received by the Trustee which under the provisions of this Section 2 is to be held by the Trustee as part of the security for the Notes shall from time to time, so long as the Company shall not be in default in the payment of interest on some one or more of the Notes, when and as the same shall become and be payable as therein or herein expressed, and none of the events of default, specified in subdivisions (b), (c), (d), (e) and (f) of Section 3 of Article Seven hereof shall have happened and be continuing, be applied by the Trustee, if the Company shall in writing so request, either to the purchase of such obligations issued or guaranteed by the Government of the United States of America (hereinafter termed Government Bonds), maturing by their terms on or before August 1, 1944, as may be specified in such request, or to the purchase of Notes in the market, or at public or private sale, at a price or prices, not exceeding the principal amount thereof and accrued interest, deemed by the Trustee in its discretion to be the best price or prices obtainable at the time.'

"Section 4. Except as expressly provided in this Supplemental Indenture the rights and powers of the Trustee with respect to the Pledged Securities, and the covenants, conditions and agreements relating thereto on the part of the Company, shall be as provided in the Note Indenture, with the same force and effect as if herein set forth in full. The lien securing the Notes and the interest thereon shall be unaffected by the extension thereof with interest at the rate of 4% per annum pursuant to this Supplemental Indenture."

AFFIDAVIT IN SUPPORT OF SUGGESTION.

STATE OF ILLINOIS }
COUNTY OF COOK } ss:

Meyer Abrams, being first duly sworn on oath, deposes and states that he is counsel for the petitioner in the above entitled cause.

Affiant further says that the foregoing Excerpt from Exhibit 74 is a true and correct copy of the part of that Exhibit described in the Decree approving the Debtor's Plan.

Affiant further says that he makes this affidavit pursuant to Rule 17 of this Court.

MEYER ABRAMS.

Subscribed and sworn to before me
this 30th day of December, A. D.
1940.

GRACE WIENER,
Notary Public.